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**BEFORE THE ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI**

ANGELA DIANE RICKABAUGH,

Petitioner,

vs.

**DOUGLAS M. OMMEN, Director of
Insurance, Financial Institutions and
Professional Registration,
State of Missouri,**

Respondent,

Case No. 06-1543DI

0611 01 320C

PETITIONER'S BRIEF
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to this Commission's Order dated August 22, 2007, Petitioner, representing herself pro se, hereby submits the following Proposed Findings of Fact and Conclusions of Law. The evidence presented in the matter clearly demonstrates that the Respondent has failed to provide sufficient evidence for the denial of Angela D. Rickabaugh's ("Petitioner") application for a Missouri Non-Resident Insurance Producer license under section 375.141.1(1), (8) and (9), RSMo (Supp.2005).

The dictionary definition of intent is the state of a person's mind that directs his or her actions toward a specific object, determined or resolved; having the mind or will fixed on some goal. The Respondent has failed to provide evidence supporting the allegation of

¹intent. (n.d.). *Dictionary.com Unabridged (v 1.1)*. Retrieved October 15, 2007, from Dictionary.com website: <http://dictionary.reference.com/browse/intent>

Petitioner's intent to provide materially incorrect, misleading, incomplete or untrue information in the application submitted for an insurance producers license as stipulated in 375.141.1(1), RSMo. Keeping that in mind I would like to turn once more and briefly to the facts, beginning with the uncontested ones.

PROPOSED FINDINGS OF FACT

1. Following an investigation by the Illinois Department of Insurance ("Illinois DOI"), the Illinois DOI issued an Order of Revocation, dated July 12, 2002, revoking the Petitioner's Illinois insurance license. *See Respondent's Exhibit 2, pp.11-12.* Petitioner made an appeal for reconsideration based on extenuating circumstances. *See Petitioner's Exhibit B.*
2. On January 17, 2003, the Illinois DOI Director revoked Petitioner's Illinois insurance license.
3. In February 2006, the Illinois DOI reinstated Petitioner's Illinois Property and Casualty resident license with full knowledge of the circumstances surrounding the previous revocation. *See AHC Transcript at page 49.*
4. Petitioner has a valid Illinois Insurance Producer license.
5. On February 16, 2006, Petitioner's spouse died suddenly and unexpectedly, leaving her a widow of two small children. *See AHC Transcript at pp. 41-42.*
6. On or about May 25, 2006, Petitioner applied for a Missouri non-resident insurance producer license by signing a completed form prepared by Ms. Vicki Weingand, administrative support for the Chief Financial Officer, Jerry L. Burnett at the Charles L. Crane Agency, Petitioner's primary place of employment. Ms. Weingand had answered all pertinent questions relating to the application,

including the one in question asking about previous administrative actions in other states. *See Petitioner's Exhibit E.*

7. Respondent refused to issue a license to Petitioner on September 26, 2006, pursuant to the following statutes:

- a. 375.141.1(1), RSMo (Supp.2005);
- b. 375.141.1(8), RSMo (Supp.2005); and
- c. 375.141.1(9), RSMo (Supp.2005);

See Respondent's Exhibit 3.

8. On or about September 28, 2006, Respondent sent an Order of Refusal to issue the license to Petitioner pursuant to section 621.120, RSMo. *Id*
9. On or about October 18, 2006, Petitioner appealed Respondent's Order of Refusal to this Commission.
10. On November 14, 2006, Respondent, through counsel, filed his Answer to Petitioner's Complaint.
11. The Commission has jurisdiction over this case pursuant to section 621.045, RSMo.
12. On July 20, 2007, this Commission held a hearing on the matter. Respondent was present, and represented by counsel, and presented evidence in support of his answer. Petitioner appeared pro se, presenting evidence opposing Respondent's Order of Refusal. *AHC Transcript at pp. 2-56.*
13. While testifying before this Commission on July 20, 2007, witness for the Respondent, Sherry Sloan, admitted that she did not use the address on the application completed by Petitioner, Angela Rickabaugh, for a Missouri Insurance

license in corresponding with the Petitioner. *See AHC pp. 22-24.* This information being described by the witness, Ms. Sloan, as “basic identifying information”, see *AHC p. 13.*

14. Incorrect information used by Ms. Sloan led to a delay in Petitioner’s response to the Missouri DOI. *AHC p. 25.*
15. While testifying before this Commission on July 20, 2007, Petitioner testified and entered into evidence supporting documentation of extenuating circumstances that led to the revocation of her Illinois Insurance license. *See Petitioner’s Exhibit B.* Also entered into evidence on that same date was evidence of steps that had been taken to rehabilitate herself by signing a voluntary ban from Casinos. *See Petitioner’s Exhibit C.*

ARGUMENT

16. The evidence presented by the Respondent fails to establish the Petitioner’s intent to provide materially incorrect, misleading, incomplete or untrue information on the application for an insurance producer license, thereby discounting the grounds for refusal to issue said producer license under section 375.141(1), RSMo. As stated in the Affidavit of Vicki Weingand, *Petitioner’s Exhibit E*, Ms. Weingand gives an accounting of the steps that were taken by her in completing the application on behalf of Ms. Rickabaugh, and acknowledges that Ms. Rickabaugh was only provided with the first page of the application for completion, and upon being asked to sign the document did so without review. *Petitioner’s Exhibit E and AHC p. 44.*

Clerical and/or administrative mistakes can be made, as described in testimony given by Special Investigator Sheri Sloan, *AHC pp. 22-24*. When she did not use the application submitted by the Petitioner for correspondence relating to the application submitted by the Petitioner, therefore delaying response time from the Petitioner.

The Illinois Department of Insurance issued an Illinois Resident Property and Casualty Insurance License to Petitioner in February 2006, with full disclosure of all of the facts and circumstances surrounding the previous revocation, *See Petitioner's Exhibit D*, and additional information attesting to the rehabilitation and character of the Petitioner. *See Exhibits C and D*.

The question posed to the Petitioner in the license application was indeed straightforward "Have you...ever been involved in an administrative proceeding regarding any professional or occupational license? The question brought before this commission was Petitioner's intent. Evidence provided clearly demonstrates the lack of intent by Petitioner. Upon cross examination of Ms. Sloan by Petitioner it was stated by Ms. Sloan that Petitioner had not tried to conceal any of the material facts surrounding the grounds for revocation from the State of Illinois or the investigating insurance companies. *See AHC pp.27-28*, further demonstrating Petitioner's willingness to admit to her transgressions and make restitution. *See AHC p. 34*.

The Respondent uses a criminal case for reference, *Spradling v. Supervisor of Liquor Control*, 824 S.W.2d 906, 907 (Mo. 1992). This case does not appear to

be relevant to any of the findings of fact presented by the Respondent as it pertains primarily to the application of Sunshine Laws.

In *Morrow v. The Director of Insurance, Administrative Hearing Commission*; Case No. 01-1809, the commission found it within their Discretion to Grant or Deny a Missouri Insurance License citing that *the Wyoming revocation provided a basis for denying Morrow's license under section 375.141.1(9). However, that statute provides that we "may" deny Morrow's application on those facts.*

"May" means discretion, not a mandate. S.J.V. ex rel. Blank v. Voshage, 860 S.W.2d 802, 804 (Mo.App., E.D. 1993). Morrow argued that he had changed his life since the Wyoming revocation. In deciding how to exercise their discretion the commission also looked to standards set forth by the General Assembly and the courts in other licensing contexts. For example, under section 314.200, the commission stated that they may consider a criminal conviction as some evidence of the applicant's lack of good moral character, but we must also consider

(1) the nature of the crime committed in relation to the license which the applicant seeks, (2) the date of the conviction, (3) the conduct of the applicant since the date of the conviction and (4) other evidence as to the applicant's character.

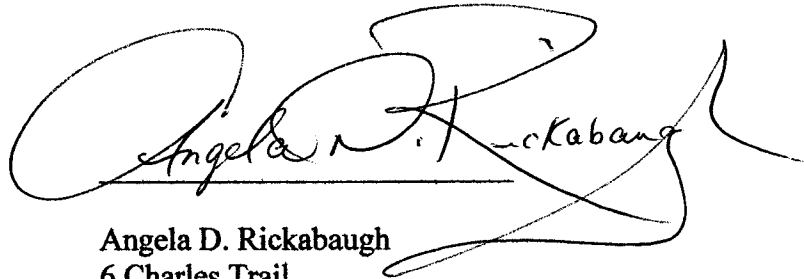
The commission also noted that the courts have further stated that a rehabilitant should at least acknowledge guilt and embrace a new moral code. *Francois v. State Bd. of Regis'n for the Healing Arts*, 880 S.W.2d 601, 603 (Mo. App., E.D. 1994). The commission ruled in favor of granting Morrow's license stating that they were not forgiving Morrow's conduct, but that Morrow had put his conduct at issue and made the necessary showing.

Respondent further alleges that the Petitioner has not demonstrated the truthfulness that is essential for an insurance producer license. The evidence presented disputes this allegation as it applies to the submission of the application for a Missouri Insurance Producers license, as the facts support the clerical error by Vicki Wiengand and unintentional oversight by Petitioner.

17. The evidence in the record establishes that the Respondent failed to prove that the Petitioner intentionally used fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the State of Missouri, as they have used for the grounds in denying Petitioner's insurance producer license under 375.141.1(8), RSMo (Supp. 2005).
18. The State of Illinois has reinstated the Petitioner's Property and Casualty Producers license without limitation. The Missouri license is being sought only on a non-resident basis.
19. The issuance of a license by the state of Missouri would uphold the allegation by the Petitioner that rehabilitation has been sufficient to prove the characteristics required of competent, skilled and trustworthy. The Petitioner has taken steps to rehabilitate herself, and has proven herself to be of no substantial risk to the insurance consuming public in the State of Missouri.

WHEREFORE, based on the forgoing, the Petitioner respectfully requests that the Commission make findings of facts and conclusions of law that Angela D. Rickabaugh be granted a insurance producers license.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Angela D. Rickabaugh", is written over a horizontal line. The signature is stylized with large loops and a long, sweeping tail that extends to the right.

Angela D. Rickabaugh
6 Charles Trail
Lebanon, IL 622547
Telephone: (618) 624-5458

CERTIFICATE OF SERVICE

The undersigned individual hereby certifies that a true and correct copy of the forgoing was mailed first class, with sufficient postage attached, via the United States Postal Service on this 16th day of October, 2007, to:

Tamara A. Wallace
Missouri Department Of Insurance
Financial Institutions & Professional Registration
301 West High Street, Room 530
Jefferson City, MO 65101